



STATE OF ARKANSAS  
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and Administration**

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January 29, 2007

SAU Tech  
Attention: Debbie Beasley/Valerie Wilson  
P.O. Box 3499  
Camden, AR 71711-1599

Re: Advisory Opinion # 483-08-02

Dear Ms. Beasley:

This letter is in response to your request for an advisory opinion pursuant to ACA Section 19-11-715 (b).

Your request for an advisory opinion is based on the following facts:

- 1) Jill McCollum is a faculty member at SAU Tech and currently serves as an instructor in the Computer Technology Department.
- 2) In the Summer of 2007, SAU Tech, IT Department entered into an agreement with 'Go Wireless' to provide Internet Service and provide access to T1 lines.
- 3) 'Go Wireless' was owned by Stan Youngblood at the time the agreement was entered.
- 4) Jill McCollum's husband recently purchased 'Go Wireless'.
- 5) The IT Department at SAU Tech is responsible for the administration of this agreement.
- 6) Jill McCollum has not been involved in the procurement process.
- 7) Jill McCollum's employment with SAU Tech had no bearing on her husband's decision to purchase 'Go Wireless'.
- 8) You are requesting an opinion as to whether SAU Tech contracting with 'Go Wireless' creates a conflict of interest or violation of ethics.

A.C.A. § 19-11-705, Employee conflict of interest, prohibits contracts with family members or employees who "participate" in the procurement process. The definition of "direct or indirect participation" at A.C.A. §19-11-705(a)(2) includes, but is not limited to, "involvement through decision, approval, disapproval, recommendation, preparation of any part of a procurement request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity." The position of employment and/or an employee's "participation" in the procurement process, both "direct" and "indirect" must be examined on a case by case basis.

In the case at hand, as long as Jill McCollum had no direct or indirect participation in the procurement process associated with the contract between 'Go Wireless' and SAU Tech there is no conflict, and no prohibition to contracting.

Accordingly, SAU Tech is not prohibited by statute from contracting with 'Go Wireless' as a result of Ms. McCullum's position as long as Ms. McCollum did not participate in the procurement process.

This advisory opinion is issued in accordance with A.C.A. §19-11-715(b) and compliance with the above course of conduct is deemed to constitute compliance with the ethical standards of the Act.

Sincerely,

Richard A. Weiss  
Director

CC:  
Joe Giddis, OSP